

RESPONSE TO COMMENTS
AK-0055310-4

EPA received one comment on the draft permit from the Alaska Department of Natural Resources (ADNR). EPA also received further information pertaining to the Endangered Species Act and Essential Fish Habitat (EFH).

Comment: ADNR recommends the following language for Permit Part I.A.3.:

“If the permittee observes noticeable turbidity outside a 500 meter radius of the work site, operation of the suction dredge must decrease or cease so that a violation as defined above does not exist.”

Response: EPA agrees with ADNR. The draft permit contained a typographical error saying that if noticeable turbidity occurred *within* a 500 meter radius then operations must decrease or cease. This requirement of the draft permit is contrary to the monitoring requirements contained in the permit and the § 401 Certification provided by the Alaska Department of Environmental Conservation (ADEC).

Endangered Species Act

In a letter dated February 12, 1999, the National Marine Fisheries Service (NMFS) provided a list of the following endangered species that may occur in the activity area:

Northern right whale	Bowhead Whale
Sei Whale	Blue Whale
Fin Whale	Humpback Whale
Sperm Whale	Steller sea lion

NMFS indicates that there is no designated critical habitat for any of these species in the project area. Based on this information, EPA has determined that the proposed activity is not likely to affect the listed species.

A letter regarding endangered species from the U.S. Fish and Wildlife Service (USFWS) sent to the Army Corps of Engineers (Corps) was dated

February 12, 1999. USFWS provided EPA this letter on February 17, 1999, as a response to EPA's February 1, 1999, request for a species list. USFWS states that the Spectacled and Steller's eider are threatened species that may occur in the project area. The letter states that USFWS believes that the proposed project and associated activities are not likely to adversely affect either species.

Essential Fish Habitat

EPA requested concurrence on its determination that the discharge was not likely affect essential fish habitat on February 8, 1999. NMFS did not formally reply to EPA but the Corps Section 10 permit contains timing restrictions to lessen the potential impacts on red king crab mating pairs and egg-laden females. Since the NPDES permit does not relieve the permittee from compliance with other laws, EPA will depend on compliance with the Corps permit to protect EFH.

§ 401 Certification

EPA received a copy of ADEC's § 401 Certification dated April 2, 1999. All stipulations listed in the Certificate of Reasonable Assurance were contained in the draft permit and will be included in the final permit.

Coastal Zone Consistency Determination

ADGC's Final Consistency Determination was dated April 12, 1999.